

Notice of Allowability

Application No.

10/730,556

Examiner

Sudhaker B. Patel, D.Sc.Tech.

Applicant(s)

LIEB ET AL.

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1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/8/2003.
2. ☒ The allowed claim(s) is/are 28-41.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/646,722.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>6/10/04</u> . |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>12/8/03</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

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EXAMINER'S AMENDMENT


1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with ATTY. Dr. R.J.Harmuth on 6/10/04.

The application has been amended as follows:

(A). In page 2, line 3 of preliminary amendment paper dated 12/8/03, please delete:" [for which a Notice of allowance was issued dated September 11,2003]", and insert: filed 5/9/2002, now U.S.P. 6693092".

(B). In claims 39 and 41 in pages 35, 36 respectively please delete:"[and/]".


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2. The following is an examiner's statement of reasons for allowance:

3. Applicants' amendment paper dated 12/8/03 is acknowledged. Applicants have cancelled claims 1-27, and provided new claims 28-41. Therefore, the claims under consideration are the claims 28-41, which are renumbered as claims 1-14 respectively.

4. The instant specification has been amended for citing the correct relation to the parent U.S. Application Sr.No. 10142325, file 5/9/02, now U.S.P. 6693092. (See attached examiner's interview dated 6/10/04).

5. Claims 3941 are amended by deleting: "[and/]". (See attached examiner's interview dated 6/10/04).

6. This application is a DIV of the parents U.S. Application Sr. No. 1042325, now U.S.P. 6693092, wherein applicants claimed CKE = Figure (2) i.e. furanone core.

7. Applicants have presented claims 28-41 wherein the CKE moiety is limited to Formula (7) & (8) i.e. cyclopentanone & cyclohexanone cores.

8. The closest prior art ref. of record (See Parent Application's U.S.P. 6693092) teaches substituted phenyl keto enols as pesticides and herbicides. Ref.'868 differs from the instant invention by having a Heterocycle at the instant CKE (= cycloalkanone) group.

9. The other ref. Harbert et al (U.S.P. 4391827) teaches compounds with a core: "1-alkoxy-4-substituted phenyl-cyclohexanone (See compounds in column 87 lines 5-35)", and the ref. '827 compounds have pharmaceutical utility which is different than the as claimed herein.

10. The above stated references either alone or in combination do not teach to arriving at the instant invention.

11. Therefore, the instant invention is deemed to be novel and patentably distinct.

12. A signed copy of PTO Form 1449 of the Applicants' IDS paper dated 12/8/03 is enclosed with this communication for their record.

13. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sudhaker B. Patel, D.Sc.Tech. whose telephone number is (571) 272-0671.

15. The examiner can normally be reached on 6:30 to 5:00 pm (Monday-Thursday). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Mukund J. Shah can be reached on (571) 272 0674 or Sr. Examiner Mr. Richard Raymond at (571) 272 0673 or Mr. James O. Wilson at (571) 272-0661.

16. The fax phone numbers for the organization where this application or proceeding

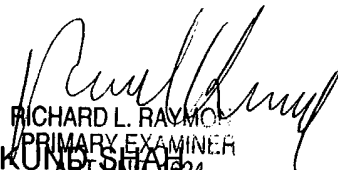
is assigned are 703 308 4556 for regular communications and 703 308 4556 for After

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Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1235. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sudhaker B. Patel, D.Sc. Tech.
June 10, 2004.



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